

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Tariff Filing Requirements)
for Nondominant Common) CC Docket No. 93-36
Carriers)

COMMENTS

Teleport Communications Group, Inc. ("TCG") offers the following comments on the Commission's February 19, 1993 Notice of Proposed Rulemaking ("Notice") in the above-captioned matter.¹

The Notice properly recognizes that non-dominant carriers, by definition, lack market power, and do not require strict tariff regulation.² Accordingly, detailed, traditional tariff regulation, while appropriate for regulating the rates of monopoly carriers, is not necessary for non-dominant carriers. Traditional tariff regulation imposes substantial financial and operational burdens on non-dominant carriers, while providing little or no public interest benefit.

For this reason, TCG supports the Commission's proposal to reduce the notice period for non-dominant carrier tariffs to not less than one day.³ TCG recently filed its first FCC tariff on

1. Tariff Filing Requirements for Nondominant Common Carriers, CC Docket No. 93-36, FCC 93-103, released February 19, 1993.

2. Notice at ¶ 2.

3. Notice at ¶ 13.

similar notice. Short notice periods allow non-dominant carriers to respond quickly to changing conditions.⁴

TCG also supports the Commission's proposal to allow carriers to specify a range of rates, or a maximum rate.⁵ This arrangement is particularly appropriate given that non-dominant carriers are constrained by the prices charged by dominant carriers, and thus by regulating those rates the Commission indirectly regulates non-dominant carrier rates. Use of rate ranges also allows non-dominant carriers to adapt to price changes by dominant carriers without incurring the expense, aggravation and delays of filing individual tariffs.⁶ In the case of TCG, which has national operations, use of rate ranges allows the company to compete with different prices and rate structures across the country, without need for filing numerous, detailed rates in each city or state in which it offers service.

4. Section 203(b) supports the Commission's exercise of authority here. See American Telephone and Telegraph Company v. FCC, 487 F.2d 864, 879 (D.C. Cir. 1973) ("...under Section 203(b) the Commission may only modify requirements as to the form of, and information contained in, tariffs and the thirty days notice provision.").

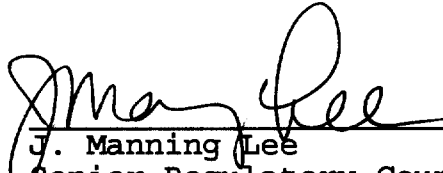
5. Notice at ¶ 22. The Commission also possesses authority to enact this change. The Commission can modify the "information contained in" the tariffs. Id. Additionally, the Courts have held that Section 203(b) is not taken directly from the Interstate Commerce Act, and therefore decisions relating to modifications of tariff filing requirements by the ICC are not controlling on the FCC. See American Telephone and Telegraph Co. v. FCC, 503 F.2d 612 (D.C. Cir. 1974).

6. Dominant carriers could use such tariff filings as opportunities to harass their smaller competitors, as Bell Atlantic has in fact done through its numerous petitions against the tariff filings of the alternative access providers in its region.

Adoption of such policies is within the Commission's authority, and would unquestionably be in the public interest. TCG recommends, therefore, that the Commission adopt the policies outlined in the Notice.

Respectfully submitted,

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